

Owning a second home/rental property in France



Joanna Reintjes explains what the key options are for accounting for furnished rental income in France and gives practical tips for tax choices



Key points:

- Although non-residents pay tax at 20%, owners also suffer 15.5% CSG
- Voluntary registration for VAT may be beneficial
- There are a range of accounting options for rental profits

Renting out your holiday home is a great way to make use of your second home, to generate an income which will help cover the fixed costs of running your property. However, the requirement to declare this income to the French authorities is often overlooked and with the new declaration of activity requirement (made to the local town hall – *Mairie*), the French Government has ample access to the information to tighten the net on any taxpayers who have rented out their holiday home for profit, and not declared the income to the French centre for non-residents. Basic rate tax is a minimum rate for non-residents of 20%, and under new provisions introduced this year the rental income stream is also subject to *contributions sociales généralisées* (CSG) (French social charges – currently 15.5%). Second homes are also subject to *taxe foncière* – property rates, and *taxe d'habitation* – council tax on the occupation and availability of your accommodation.

Preliminary obligations

The declaration at your local *Mairie* is a required first step, which will also include registering for *taxe de séjour* (tourist tax based on per person per night – revenue used to finance local marketing initiatives).

Bed and breakfast, holiday cottages, and rural tourism activities fall under *BIC regime* (*bénéfices industriels et commerciaux*), and as a commercial trade, the scope for allowable for related expenses is quite wide. Typically, this would include marketing costs, repairs, changeover costs, insurance, small fixtures and fittings (capital limit €500), depreciation on capital items, and mortgage interest. Add backs will of course be required for personal use. The 10% wear and tear allowance is replaced by actual depreciation costs. All fixed assets can be depreciated for tax purposes in accordance with their economic useful life, and normal depreciation is allowable as a deduction from business profits. Eg a typical rate for furniture would be 10% per annum. You are also required to declare your activity at the tax office which notifies them of chargeability and this process also results in a SIRET number which is useful proof that you are trading in France legally.

Should I be registered for value added tax – TVA?

You need to consider whether you will have to register for *TVA* (value added tax), or whether it is worthwhile opting to do so even if you your turnover does not make it an obligation – there is a reduced rate of *TVA* for the rental of accommodation (7%), which could make voluntary registration worthwhile if you have significant start up expenses – especially if you have planned a lot of renovation work. You must provide certain hotel type services to be classified as taxable – eg regular cleaning and a manned reception desk. Note that many tax incentives also exist for special projects eg for welcoming handicapped guests, and *résidences de tourisme* where you can reclaim the *TVA* on the purchase of your new build, by opting to tax the future rental stream. *TVA* can then be accounted for by the *régime simplifié* (annual accounting with quarterly payments on account), or *mini réel* (quarterly returns on actual transactions).

Tax options

Entreprise individuelle is a kind of self-employment registration, with an option known as the Réel Regime, which takes into account the actual income and expenses of the business. A separate annual declaration is required (form 2031) and for the tax year 2012 this would normally have to be declared by 30th April 2013 (extensions for online declarations). Full books have to be kept including a nominal ledger, and a separate bank account is strongly recommended as the French authorities rely heavily on bank statements in the case of tax inspection. Expenditure will be disallowed if there is no receipt and no proof of payment. Round-sum allowances are not

permitted, expect for €150 petty cash expenses per annum. Staff have to be declared to *URSSAF* (French organisation responsible for PAYE deductions) even at the lowest level of part time employment. Cash wages would not be allowed as a deduction, but costs of using a property management company would be.

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Buildings depreciation is also allowable as a deduction – but the depreciation offset against income is then removed from your base cost for capital gains tax purposes on an eventual sale. Your property would in effect be brought into your business balance sheet as a depreciating asset. The current CGT regime for individuals exonerates the gain after 30 years of ownership (was 15 years until the beginning of 2012). It is this individuals regime that would apply if you are trading non-professionally.

If you intend to live in your second home on retirement, then the erosion of your base cost for CGT purposes by the depreciation might not be an issue for you, as the principal residence exemption can be established after two years of habitual residence in your French home. In this case it might well be worthwhile opting for the building to be depreciated – although excess depreciation cannot create a tax loss. The saving on income tax and CSG could be considerable over the period of renting if your rental property is at the higher end of the market.

Another complication is that if you have a positive result, this is notionally enhanced by 25% unless you are a member of a *centre de gestion* (fiscal audit centre). So if you have a profit of €1,800 you would pay your 20% income tax on profits of €2,250 (€1,800 x 1.25). The annual cost of a *centre de gestion* is around €200, but this cost combined with cost of the extra reporting that your French accountant will have to provide to the *centre de gestion* needs to be weighed up against the associated saving in tax.

Tax returns for the reel regime need to be submitted for 30/4/2013, and the income then added to the personal return. Personal returns are due in on 31/5/2013 for residents, and 30/6/2013 for non residents (EU countries).

Micro

Another option, known as *Micro Entreprise*, allows you to work out your profits by a specified deduction for expenses – this is 50% of your rental income in most cases. So, if you earned €10,000 in gross letting income, your *Micro* profits would be €5,000. You would then pay your taxes on this result – so based on the 2012 combined rate of income tax and CSG (35.5%) your French tax bill would be €1,775.

The *Micro* system is useful as it offers a simplified accounting system, and once the gite is up and running, a 50% deduction for expenses is quite generous (71% is possible for certain types of rural gite – conditions apply). The *Micro* regime is permitted provided the gross revenues do not exceed €81,500 in 2012. Taxpayers under the *Micro-BIC* regime are exempt from the filing of a statement of results (2031 and annual accounts with full nominal ledger). The *Micro* figure for annual turnover is declared directly in the supplementary pages of the declaration 2042 income tax declaration, and the 50% deduction automatically given.

Your annual French income declaration will normally be made at the end of June as a non-resident. Residents are required to make the declaration by 31/5/2013.

SARL

This is the equivalent of a limited liability company in the UK. It's a more complicated structure that would be best suited to larger operations such as a gite complex, especially where the whole property is to be run as a business. It can be advantageous for professional level operations especially with multiple ownership, as it allows for profits from the business to be distributed to the shareholders as dividends, and also provides a separate structure for business assets. A *SARL* is more costly to run from an administrative point of view, and there are more onerous obligations too – for example, annual accounts have to be filed at the *Greffe* (equivalent of Companies House).

If you bought the property in your own personal names, you will also need a lease to be set up between the operating company and you as individuals. The rent will need to be an arm's length equivalent, and you will be taxed as an individual for this rental stream, with a corresponding deduction from the *SARL*'s books.

CSG – contributions sociales généralisées

Under the retroactive 2012 Finance Act income from the rental of buildings located in France, is now subject to CSG taxes. Unlike persons domiciled in France, non-residents will not benefit from the partial deductibility of the CSG against the following year's income. This new measure applies to income received by non-residents from 1 January 2012.

French property capital gains realised by non-residents are also subject to CSG estate from 17 August 2012 onwards. This tax is however inadmissible under DT7252 (Double Taxation Relief Manual: Guidance by country: France), so will create a significantly increased tax burden for many UK tax payers with second homes in France.

The fact that the levy is considered to be a social charge does not, however, confer any rights to healthcare and other social security benefits in France.

At an EU-level, CSG, in theory, is not due by non-residents of France, since it is contrary to the European agreements concerning the financing of social protection (more specifically, European residents subject to a non-French social protection system do not have to finance French social protection) – but the ECJ have not ruled on the exact nature of CSG (it could still be considered a tax). An appeal by an individual taxpayer may therefore be possible. At a French local tax office level, treatments vary (CSG/CRDS is in theory applicable to many UK sources of income for UK expats living in France, but reported treatments and interpretation of the rules vary considerably). It is likely that the Centre for Non-Residents will have a more consistent approach to applying CSG to non-residents with French property income, as all second home owners are taxed at this one centralised tax centre. We will have to wait for the 2013 tax season, to see how the French authorities will deal in practice with the collection of CSG on property income earned by non-residents, and whether the provisions for CSG will be undone for the 2012 tax year.

If you are a resident and have an S1, it may be possible to obtain a waiver from CSG. It is also well worth a review of your circumstances with your French accountant, to see if you can make an election to change regimes for 2013 so that you can reduce your French tax burden.

Other considerations

- Furnished rental businesses are distinguished between professional and non-professional – with more advantageous loss provisions and certain exonerations for capital gains tax (currently under revision by the French Government). To be classified as running the business at a professional level your annual income must be more than €23,000 and you also need to be registered with the chamber of commerce, *Chambre de Commerce*.
- *Contribution économique territoriale (CET)* – this levy in theory replaces *taxe d'habitation* if the property is deemed to be principally used for lettings rather than personal accommodation. *CET* tax is allowable as a deduction against business profits, but *taxe d'habitation* is not – in effect distinguishing between personal and business use.
- Watch out for travel to and from property – generally this is considered a cost without a professional motive – since the cost is viewed as a cost to protect your personal asset.
- Employing staff to complete change-overs – remember there are obligations to declare any staff and pay over employee and *employer cotisations (NICs)* – there are online wages systems run by URSSAF (Government PAYE body) which are designed to help businesses complete the obligatory registrations, produce payslips and pay over any cotisations that you owe. It also helps to keep your payroll records.

USEFUL LINKS

www.impots.gouv.fr
www.letese.urssaf.fr

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